

MORRISON | FOERSTER

2000 PENNSYLVANIA AVE., NW
WASHINGTON, D.C.
20006-1888

TELEPHONE: 202.887.1500
FACSIMILE: 202.887.0763
WWW.MOFO.COM

MORRISON & FOERSTER LLP
NEW YORK, SAN FRANCISCO,
LOS ANGELES, PALO ALTO,
SAN DIEGO, WASHINGTON, D.C.

DENVER, NORTHERN VIRGINIA,
ORANGE COUNTY, SACRAMENTO,
WALNUT CREEK, CENTURY CITY
TOKYO, LONDON, BEIJING,
SHANGHAI, HONG KONG,
SINGAPORE, BRUSSELS

July 29, 2005 DOCKET FILE COPY ORIGINAL RECEIVED

Writer's Direct Contact
202-887-6935
mtobey@mofo.com

JUL 29 2005

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W., TW-A325
Washington, D.C. 20554

Federal Communications Commission
Office of Secretary

ORIGINAL

Re: **NOTICE OF EX PARTE PRESENTATION**
MB Docket No. 04-312

Dear Ms. Dortch:

On July 28, 2005, the undersigned, along with the individuals identified below, met with Commissioner Jonathan Adelstein and media advisor Rudy Brioché to urge the Commission to grant the channel exchange proposed by NBC Telemundo License Co. ("NBC Telemundo") and Community Television Educators, Inc. ("CTE") in the above-referenced docket:

- Earl Wilcox, Special Assistant for Community Outreach, Office of Arizona Governor Janet Napolitano
- Mary Rose Garrido Wilcox, Supervisor (District 5), Maricopa County Board of Supervisors
- Gerardo Higginson, Senior Assistant to the Mayor, Office of Mayor Phil Gordon, City of Phoenix
- Miguel Fernández, Coordinator of Program Development, League of United Latin American Citizens ("LULAC")
- Karinne Hernandez, Hispanic Technology and Telecommunications Partnership ("HTTP")
- Don Browne, President, Telemundo Network
- Ibra Morales, President, Telemundo Station Group
- Alfredo Richard, Vice President, Corporate Communications, Telemundo Network
- Jose Diaz-Balart, Anchor/Correspondent & Director of Public Affairs, Telemundo Network
- Bill LeBeau, Senior Regulatory Counsel, NBC Telemundo
- John Fiorini, Wiley Rein & Fielding, LLP, Counsel for CTE

No. of Copies rec'd 091
List ABCDE

Marlene H. Dortch
July 29, 2005
Page Two

During the meeting, the representatives of the Governor's Office, the County Board of Supervisors and the City of Phoenix (the "Government Representatives") stated their strong support for the proposal. They observed that the Hispanic population of Phoenix and Maricopa County has grown very rapidly and is projected to increase substantially in the future. The Government Representatives explained that Latinos rely heavily on free, over-the-air television for local news and information, including on such important topics as the drowning risks posed to young children in the summertime, voter education, literacy, health, and other important issues facing the Hispanic community. They noted that Telemundo does an excellent job of presenting local programming of this nature, but that the signal of its existing low power station in Phoenix is not able to reach sizable portions of the population. They urged the Commission to grant the proposal expeditiously because the Latino population in Phoenix needs and deserves a second full-power Spanish-language television station to increase diversity, choice, and competition. Mr. Wilcox presented a letter to Commissioner from Arizona Governor Janet Napolitano also urging the Commission to grant the proposal, a copy of which is attached hereto.

Mr. Fernández of LULAC and Ms. Hernandez of HTTP emphasized the importance that Hispanics attach to maintaining and fostering their unique culture and the key role that Spanish-language and Hispanic-themed programming can play in preserving and enhancing this culture. They urged the Commission to act expeditiously in granting the proposal to give greater choice to Phoenix's large and growing Hispanic population.

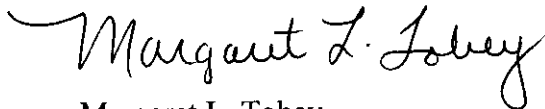
The Telemundo representatives discussed Telemundo's commitment to serving the local Hispanic communities in which its stations operate through a diverse mix of network and local news, informational and public service programming, and long-form scripted programming produced by Telemundo especially for the Latino American audience. These representatives also emphasized that the network's existing low power station cannot reach large segments of the population, particularly those Hispanic viewers in Phoenix who rely solely on over-the-air television service (at least 45% of the target population) and especially those who receive their over-the-air service using indoor antennas. The Telemundo representatives also emphasized the overwhelming level of support for the proposal from all quarters, including the federal, state, county, and local governments; local public safety agencies; Hispanic organizations; churches; advertisers; local sports teams; and religious broadcasters. Finally, the Telemundo representatives underscored the many aspects of the proposal that render it unique and compelling. These unique aspects were summarized in a one-page hand-out provided to the meeting participants (copy attached), which also identified the 100-plus national, state and local political and civic leaders and others groups who support the proposal.

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, an original and one copy of this letter have been submitted to the Office of the Secretary, and a PDF version of

Marlene H. Dortch
July 29, 2005
Page Three

the letter has been sent by electronic mail to the Commission personnel who participated in the meeting. Questions concerning this submission should be addressed to the undersigned.

Very truly yours,

A handwritten signature in cursive script, reading "Margaret L. Tobey".

Margaret L. Tobey

Attachment

cc(w/att): Commissioner Kathleen Abernathy
Lauren Belvin



STATE OF ARIZONA

JANET NAPOLITANO
GOVERNOROFFICE OF THE GOVERNOR
1700 WEST WASHINGTON STREET, PHOENIX, AZ 85007MAIN PHONE: 602-542-4331
FACSIMILE: 602-542-7601

July 27, 2005

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: MB Docket No. 04-312 (Channel *39, Phoenix, Arizona, and Channel 11,
Holbrook, Arizona)

Dear Ms. Dortch:

I am writing to reiterate my support for the pending proposal of NBC Telemundo License Co. (NBC Telemundo) and Community Television Educators, Inc. (CTE) relating to channel transfers and authorizations to operate. I understand that the effect of the proposed transfers and authorizations would be to allow NBC Telemundo to begin broadcasts of a full power television station. For the reasons outlined in this letter, I support the proposal and urge the FCC to grant it promptly so that the large Hispanic population of Phoenix can have, for the first time, a choice of full-power Spanish language television stations.

The Hispanic Residents of the Phoenix Area Lack Choice in Full-Power Spanish-Language Television Programming

- According to the 2000 U.S. Census, Phoenix is the sixth-largest Hispanic population center in the United States. Thirty-four percent of the population of Phoenix and 26.7 percent of the population of Maricopa County is Hispanic. Many of these Hispanic residents are recent immigrants who speak only or primarily Spanish in their homes.
- I am told that only about 40 percent of the Spanish-dominant residents of Phoenix subscribe to cable and other pay television services. This means that well over half of these predominantly Spanish-speaking viewers rely on free, over-the-air television as their primary source of news and information.
- Currently, Phoenix and the surrounding area are served by only one full-power Spanish-language television station, KTVW-TV, which is owned by Univision, while Telemundo's programming is carried on a low power Class A station, KDRX. This

Marlene H. Dortch

July 27, 2005

Page Two

means that Phoenix is the only top-ten Hispanic television market in the United States that does not have full-power competition.

Granting the Proposal Will Create Better Programming Choices for Phoenix's Hispanic Residents, Including Expanded Spanish-Language News Coverage

- Phoenix's Hispanic residents would be best served by having a choice in full-power over-the-air Spanish-language television stations so that they have access to diverse programming of all types.
- I understand that NBC Telemundo has pledged to air one hour of locally produced Spanish-language news programming Monday through Friday to its broadcast schedule if the proposal is granted.
- The vast majority of Spanish-dominant viewers in Phoenix rely on television as their primary source of news and information. Having a choice in locally produced Spanish-language news programming is especially important to these viewers.

For these reasons, I urge the FCC to act quickly to grant the proposal submitted by NBC Telemundo and CTE.

Yours very truly,



Janet Napolitano
Governor

JN:TAN/jm

KEY REASONS TO SUPPORT PHOENIX CHANNEL EXCHANGE

The Phoenix-Holbrook Channel Exchange Proposal Involves a Series of Unique Circumstances	100-Plus National, State and Local Political and Civic Leaders, Advertisers and Religious Broadcasters Support the Proposal	
<ul style="list-style-type: none"> • <u>Spanish-Language Competition in Top-10 Hispanic DMA:</u> Phoenix is <i>only</i> top-ten Hispanic DMA without a full-power Spanish TV station competitor to Univision in its core city. • <u>No Change in Number of NCE Allotments in Phoenix DMA:</u> There is <u>no</u> reduction in number of reserved NCE allotments in the DMA (and the DMA will gain a Class A NCE station). • <u>FCC Already Deemed NCE Channel Dispensable:</u> The FCC was ready to eliminate both allotments at issue as part of DTV transition, but for last-minute applications. • <u>New Stations -- Limited Viewership Effect:</u> Both stations are so new that neither was eligible for a paired digital channel. • <u>Rejection Risks Creation of TV White Area:</u> No commercial full-power station can survive in Holbrook. KPHZ(TV) never has had <u>any</u> revenues. Unless station is acquired by strong NCE operator, the area will lose its sole local TV service. • <u>Proposal Means Fairer Distribution of NCE Allotments:</u> All operating noncommercial TV Stations in Arizona currently are assigned to just two cities. • <u>Targeted Viewers Heavily Reliant on Over the Air TV:</u> Studies demonstrate that 45% or more of Phoenix Hispanics depend on local, over-the-air signals as sole TV source. 	<ul style="list-style-type: none"> • Congressman Raul Grijalva (AZ-7th) and Vice-Chair, Cong. Hispanic Caucus ("CHC") • Congressman Ed Pastor (AZ-4th), and past CHC Chair • Congressman J.D. Hayworth (AZ-5th) • Arizona State Sen. Pete Rios • Arizona State Rep. Ben Miranda • Arizona State Rep. John Loredó • Arizona Dept. of Health Services • LULAC (League of United Latin American Citizens) – Arizona • MANA, the National Latina Organization • Hispanic Technology and Telecommunications Partnership • Comité Guatemalteco Arizona • Cesar E. Chavez Foundation • Valle del Sol • Arizona Latino Media Association • Omega Delta Phi (Hispanic Fraternity, Arizona State Univ.) • Make a Wish Foundation of Arizona 	<ul style="list-style-type: none"> • Arizona Gov. Janet Napolitano • Phoenix Mayor Phil Gordon • Chandler Mayor Boyd Dunn • Tempe Mayor Hugh Hallman • Maricopa County Supervisor Mary Wilcox • Phoenix Councilmember Michael Johnson • Maricopa County Sheriff's Office • Phoenix Police Department • Phoenix Fire Department • Tempe Police Department • Glendale Police Department • Migrant Health Education • DeColores Domestic Violence Shelter • Univ. of Arizona, Hispanic Center of Excellence, School of Medicine • Race for the Cure, Phoenix • Arizona Diamondbacks, Phoenix Suns & Arizona Heatwave • Roman Catholic Diocese, Phoenix • St. John Vianney Catholic Church • Desert Southwest Annual Conference, United Methodist Church • 28 Religious Broadcasters • 34 Phoenix-area advertisers

Only Parties Opposing the Proposal, Which Has Been Pending Since August 2004: Univision, Council Tree